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## **OLR Bill Analysis**

### **HB 5023**

#### ***AN ACT CONCERNING PORTABLE ELECTRONICS INSURANCE.***

##### **SUMMARY:**

This bill establishes licensing and regulatory requirements for portable electronics insurance. It prohibits a seller (i.e., one who leases or sells portable electronics) from offering or selling portable electronics insurance in Connecticut without first obtaining a license from the insurance commissioner.

The bill (1) requires sellers to make certain information about portable electronics insurance available to prospective buyers and (2) allows buyers, insurers, and sellers to cancel coverage under certain conditions. It establishes the following fees: \$100 for filing an application for an initial license, \$500 for the initial license, and \$450 for a license renewal. Licenses are valid for two years.

The bill exempts specified portable electronics insurance claims employees from Connecticut's casualty claims adjuster licensing requirements. It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2014

#### **§§ 1 & 3 – PORTABLE ELECTRONICS INSURANCE**

##### **§ 1(a) – Definitions**

The bill applies to insurance coverage for repairing or replacing a portable electronic device due to loss, theft, mechanical failure, malfunction, damage, or other similar causes of loss. It excludes an extended warranty; an insurance policy covering a seller's or manufacturer's obligations under a warranty; and a homeowners', renters', or other insurance policy that provides similar coverage.

A "portable electronic device" is any self-contained, easily carried, battery-operated electronic equipment for personal use for

communicating, viewing, listening, recording, playing video games, computing, or global positioning. It includes a cellular or satellite telephone, paging device, personal global positioning system unit, portable computer, audio listening or recording device, digital camera, portable video game system, telephone answering machine, docking or charging station for a portable electronic device, and similar devices. It also includes accessories for, and services related to, the use of such devices.

**§ 1(b)(1) & (2) – Seller Must Obtain License**

The bill prohibits a seller from offering or selling portable electronics insurance in Connecticut without first obtaining a portable electronics insurance license from the insurance commissioner. The license must authorize the seller's employees or representatives to offer or sell portable electronics insurance at each of the seller's locations, including any physical location in Connecticut or Internet website or call center site directed at Connecticut residents.

The seller's employees or representatives do not have to be individually licensed as insurance producers in the state if:

1. the seller obtains and maintains a portable electronics insurance license,
2. the insurer providing coverage or its supervising entity oversees the administration of the seller's portable electronics insurance program, and
3. the employees and representatives do not hold themselves out as licensed insurance producers.

Under the bill, a "supervising entity" is a Connecticut-licensed (1) insurer authorized to write personal or commercial risk insurance here or (2) insurance producer appointed by an insurer to supervise the insurer's portable electronics insurance program.

**§§ 1(b)(3) & 3 – Licensing Process and Fees**

A seller seeking a portable electronics insurance license must submit

a sworn license application to the Insurance Department on a form the commissioner prescribes, with a \$100 filing fee. The license application must include the (1) applicant's home office address and (2) name, residential address, and other information the commissioner may require for the seller's officer or employee who is responsible for the seller's compliance with the bill. If the seller derives more than half of its revenue from selling portable electronics insurance, the application must include the name, home address, and other information the commissioner may require for the seller's (1) shareholders who own 10% or more of its securities and (2) officers and directors.

A seller offering or selling portable electronics insurance in Connecticut before October 1, 2014 must apply for a license within 90 days after the commissioner makes the application available. Beginning October 1, 2014, a seller seeking to offer or sell such insurance here must obtain a license before doing so. (This time line sets up a potential gap when a seller who sells portable electronics insurance before October 1, 2014 must stop selling it while the application is pending and during the application process.)

The bill does not explicitly (1) state what the commissioner must do upon receipt of an application, (2) specify conditions for license issuance, or (3) allow the commissioner to disapprove an application. Presumably, if the commissioner accepts an application, he must issue an initial license to the seller.

The bill requires the seller to pay a \$500 fee for the initial license. It specifies that a license is valid for two years. A seller who wants to renew a license must submit to the Insurance Department any changes to the initial application, other information the commissioner may require, and a \$450 fee.

#### **§ 1(g) – License Suspension, Revocation, and Refusal to Renew**

The bill authorizes the commissioner, after notice and hearing, to suspend or revoke a portable electronics insurance license for cause. In addition to or in lieu of a suspension or revocation, the commissioner may impose a fine of up to \$5,000.

In lieu of a suspension or revocation, he may issue a cease and desist order suspending the seller's ability to offer or sell portable electronics insurance at specific locations or through specific employees or representatives.

The bill also authorizes the commissioner, after notice and hearing, to refuse to renew a portable electronics insurance license for cause. An aggrieved person may appeal the commissioner's action to the New Britain Superior Court.

**§1(c) & (d)(1) – Insurance Disclosure**

The bill requires a seller, at each location where he or she offers or sells portable electronics insurance, to make specified information available to prospective buyers in writing. The information must disclose:

1. that portable electronics insurance may duplicate insurance coverage already provided by a buyer's homeowners', renters', or other insurance policy;
2. that a buyer need not buy portable electronics insurance to lease or purchase portable electronics;
3. how to file a claim, including how to return a portable electronic device, and the maximum fee if the buyer does not comply with the return requirements;
4. that a person who buys portable electronics insurance may cancel the coverage at any time and have the person who paid the premium receive a refund of or credit for any applicable unearned premium;
5. the identity of the insurer and any supervising entity for the insurance program;
6. any applicable deductible and how the deductible is paid; and
7. a summary of the insurance benefits, key terms, and conditions, including whether portable electronic devices can be repaired or

replaced with reconditioned devices of similar make and model or nonoriginal manufacturer parts or equipment.

Additionally, if the insurance is included at no charge with a portable electronic device lease or purchase, the seller must clearly and conspicuously disclose this (presumably in writing) with the lease or purchase.

**§ 1(d) – Premium Payments**

The bill authorizes a seller to bill for and collect premium payments for portable electronics insurance if (1) premium payments are itemized separately on the buyer's invoice and (2) the seller remits premiums to the insurer within 60 days after collection.

The insurer may compensate the seller for this premium billing and collection service as mutually agreed. The seller can commingle premiums collected with other accounts if the insurer allows it to do so. But the seller must hold all premium payments collected in a fiduciary capacity for the benefit of the insurer.

**§ 1(e) – Insurer and Supervising Entity**

Portable electronics insurance cannot be issued, sold, or offered unless the policy is issued by an insurer authorized to sell that line of business in Connecticut. A portable electronics insurance policy may be issued as a group policy or master commercial inland marine policy to a seller for buyers who enroll in the insurance program (i.e., enrolled buyers). The insurer must file the policy form for the insurance commissioner's approval.

If a portable electronics insurer does not directly supervise the administration of a seller's insurance program, the insurer must appoint a supervising entity and provide the commissioner and the seller with the entity's name and contact information.

A supervising entity must maintain a registry of seller locations in the state authorized to offer or sell the insurer's portable electronics insurance policies here. The entity must make the registry available to the insurance commissioner or his designee for inspection and

examination during regular business hours. The commissioner must provide 10 days' notice when making a request.

**§ 1(f) – Cancellation Provisions and Insurer Policy Changes**

The bill specifies that buyers, insurers, and sellers may cancel coverage under certain conditions. It also allows an insurer to change the policy terms with notice to the policyholders and enrolled buyers.

**Buyers.** The bill allows an enrolled buyer to cancel coverage under a portable electronics insurance certificate at any time orally or in writing. An oral cancellation must be made to the seller at the location where the buyer elected coverage or to a telephone number specified for the purpose. A written cancellation must be sent to the (1) insurer if the buyer pays premiums to the insurer or (2) seller if the buyer pays premiums to the seller.

If cancellation is made to the seller, the seller must notify the supervising entity or insurer of the cancellation within three days after receiving the cancellation from the enrolled buyer. If sent to the supervising entity, the entity must notify, or forward the cancellation to, the insurer.

The insurer must refund or credit any unearned premium to the person who paid the premium within 60 days after receiving a cancellation.

**Insurers.** The bill allows an insurer to cancel, terminate, or change the terms and conditions of a portable electronics insurance policy after providing at least 30 days' written notice to the policyholders (i.e., sellers) and enrolled buyers. If the insurer is changing the policy terms and conditions, it must provide (1) the policyholder with a revised insurance policy or endorsement and (2) each enrolled buyer with a revised insurance certificate, endorsement, updated brochure, or other document summarizing the material changes.

An insurer may cancel a portable electronics insurance policy or certificate for nonpayment of premiums with 15 days' written notice to the policyholder and enrollees, respectively. A policyholder or enrollee

may avoid cancellation by paying the premium due in full before the cancellation effective date. The bill prohibits an insurer from cancelling a buyer's insurance for nonpayment of premium if the buyer paid premiums on time to the seller (§ 1(d)(2)(B)).

Additionally, an insurer may cancel a portable electronics insurance certificate with 15 days' written notice to the policyholder and enrolled buyer for fraud or material misrepresentation by the enrolled buyer in obtaining the insurance coverage or in making a claim.

Lastly, an insurer may cancel an enrolled buyer's portable electronics insurance certificate immediately if the buyer (1) stops having service with the seller or (2) exhausts the insurance coverage limit, provided the insurer sends the buyer a written cancellation notice within 30 days after the buyer exhausts the coverage limit. If notice is not sent in time, coverage must continue regardless of the limit until the insurer sends notice to the enrolled buyer.

**Sellers.** The bill allows a seller to terminate a portable electronics insurance policy at any time if it provides at least 30 days' written notice before the termination to the insurer or supervising entity and each enrolled buyer. The notice must include the termination effective date.

**Written Notices.** All written notices referred to above must be sent by U.S. mail or electronically to the (1) buyer's last-known mailing or e-mail address on file with the insurer or seller and (2) insurer's or seller's mailing or e-mail address specified for the purpose. An enrolled buyer who provides an insurer or seller with an e-mail address consents to receiving correspondence electronically.

Each seller, insurer, or supervising entity acting on behalf of an insurer or seller must keep, for at least three years, proof that the notices were sent.

## **§ 2 – CASUALTY ADJUSTER LICENSING EXEMPTION**

The bill exempts certain portable electronics insurance claim employees from Connecticut's casualty claims adjuster licensing

requirement. Unless exempt, no one may adjust casualty claims without a license from the insurance commissioner. The law already exempts Connecticut attorneys in the general practice of law who are in good standing. By law, a violator is fined up to \$2,000, imprisoned up to one year, or both.

Specifically, the bill exempts from the casualty claims adjuster licensing requirement a Connecticut-licensed insurance company's, casualty adjuster's, or affiliate's employee who collects or furnishes claim information and enters data into an automated claims adjudication system for portable electronics insurance claims. The employee must be one of no more than 25 such employees under the supervision of a licensed casualty claims adjuster or insurance producer who adjusts portable electronic insurance claims. The bill specifies that a licensed insurance producer acting pursuant to the bill does not have to be licensed as a casualty adjuster.

The bill defines "automated claims adjudication system" as a preprogrammed computer system designed for the collection, data entry, calculation, and resolution of portable electronics insurance claims. The system must be used only by a supervised employee of a Connecticut-licensed casualty claims adjuster or insurance producer. It must comply with all claims payment requirements under Connecticut law. Lastly, an officer of the business entity who is licensed as a casualty adjuster in Connecticut must certify that the system complies with the bill.

## **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea 19      Nay 0      (02/25/2014)